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In re Application of
MASURE, et al.
U.S. Application No.: 10/019,337
PCT No.: PCT/EP00/04918
Int. Filing Date: 26 March 2000
Priority Date: 29 June 1999
Attorney Docket No.: JAB-1512
For: NEUROTROPHIC FACTOR RECEPTOR

COMMUNICATION AND
NOTIFICATION OF
ABANDONMENT

This communication is in response to the "Petition For Extension of Time" and "Response to Notification of Defective Response" filed 30 December 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 March 2000, applicant filed international application PCT/EP00/04918, which claimed priority of an earlier application filed 29 June 1999. A Demand for international preliminary examination electing the United States was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 December 2001.

On 19 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: payment of the basic national fee; an executed declaration; an Information Disclosure Statement and a First Preliminary Amendment.

On 06 March 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a nucleotide and/or amino acid sequence disclosure in compliance with 37 CFR 1.821-1.825. Applicant was afforded two months to file the response.

On 17 April 2002, applicant responded with an amendment to the specification; applicant did not include a computer readable diskette version of the sequence listing.

On 28 June 2002, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the sequence listing filed 17 April 2002 did not comply 37 CFR 1.821-1.825 and thus was not a proper response to the Form PCT/DO/EO/905 mailed 06 March 2002. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

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On 30 December 2002, applicant filed the present petition and response considered herein.

DISCUSSION

The above-identified application was **ABANDONED** on 06 October 2002 for failure to respond to the Form PCT/DO/EO/916 within the time period prescribed therein. Applicant is seeking a five month extension of time from the mail date of the Form PCT/DO/EO/916. However, the only extendable time available was to be calculated from the mail date of the Form PCT/DO/EO/905 mailed 06 March 2002. Thus, the response filed 30 December 2002 is untimely.

RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The application is **ABANDONED** as to the United States of America.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office



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